



केन्द्रीय विश्लेषण और आसूचना इकाई  
Central Analysis & Intelligence Unit

## कर्मचारी राज्य बीमा निगम

Employees' State Insurance Corporation  
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No.S-13/HQ/01/2014-CAIU

Dated:20<sup>th</sup> September, 2016

To  
The Regional Director/Director/  
Joint Director Incharge,  
RO/SRO/DO,  
ESI Corporation.

**Sub : Inspection Scheme/Inspection Policy of ESIC and forwarding of complaints to Central Analysis & Intelligence Unit (CAIU) set-up under the Scheme of Inspections.**

Sir,

As you are well aware and as already instructed through circular No.S-11/12/12/2/2008-Rev.II dated 01.08.2014 (Inspection Policy) and circular of even number dated 25.08.2014 regarding setting-up of CAIU and guidelines on its functioning which provide that the New Inspection Policy/Scheme and setting-up of CAIU, is with a view to simplify the business regulations, improve on the ease of doing business and to ensure that the policy, of Labour Inspections, is transparent, free from discretion and to avoid frequent inspections of the same units, inspection of units (factories & establishments) to be on evidence-based inputs, secondary sources of data and set criteria. Accordingly, CAIU, at ESIC has been set-up with mandate to order/approve inspections in cases of complaints received in any office of ESIC for default in compliance by factories/establishments under the provisions of the ESI Act. The instructions/guidelines issued vide No.S-11/12/12/2/2008-Rev.II dated 25.08.2014 were again reiterated and elaborately clarified vide Circular No.S/Hqrs./2/2015-CAIU dated 18.06.2015 and also the changes approved by the Ministry of Labour & Employment in Inspection Module of Shram Suvidha Web Portal as per Record of Discussions of the Meeting taken by Joint Secretary, L&E(MG) on 20<sup>th</sup> February, 2015 and implemented by NIC, were also informed for the needful. However, it has been experienced that some of the field offices, are still continuing to refer the complaints to CAIU, which either do not require inspection approval for redressal of the complaint or which can be dealt by them, at their own level, in accordance with the instructions/provisions in the Benefit/Revenue Manuals on the related issues.

In view of above, to streamline the inspections under new Inspection Policy/Scheme through UWP/SSP and about the cases to be forwarded to CAIU for inspection approval, Competent Authority, Director General, ESIC, in consultation with J.S. (MG), MOL&E, has approved as below, for strict compliance by the field offices:-

**A. Cases to be dealt with at Regional/Sub Regional level:**

1. Cases relating to survey of the uncovered units on the basis of the list of already registered units, obtained/provided from/by different agencies of Govt. like **EPFO** etc. In such cases, a letter/notice to employer, inviting his attention to his obligations under Section-2A read with Regulation-10B shall be issued under Section-44 of the ESI Act advising him to get registration under ESI Act. Where employer fails to respond, appropriate follow-up action shall be taken, which may include, wherever required, surprise check after approval from CAIU, Hqrs. Office.

2. Benefit related cases pertaining to a specific IP (e.g. Employment Injury cases/etc.) where inspection/surprise checks are not required.
3. Inspection as per the directions of the Court.
4. Inspection/Investigation ordered by Vigilance Division.
5. Cases, where **Show Cause Notice (SCN)** for initiation of prosecution action, for non-production of records, has been issued to the Employer and the Employer is requesting for last opportunity under natural justice, before being prosecuted and subject to the condition that the employer, submits certified copies of the balance sheets with such requests to show his bona fide intention of production of records.
6. Cases, where action for **assessment of recoverable contribution on ad-hoc basis against defaulting employer**, has been initiated and during the Personal Hearing (PH) offered, the Employer is requesting for last opportunity under natural justice, before being assessed ex-parte/on ad-hoc basis. However, such opportunity should be subject to the condition that employer makes the payment of contribution for period of default on actual basis and submits its details in representation/request with certified/audited balance sheets etc. to show prima facie correctness of the payment made.

**NOTE-**

- (i) No surprise check of the unit, in any case, shall be undertaken without the approval of CAIU.
- (ii) Regions/Sub Regions will furnish a monthly report of such cases in a prescribed format.
- (iii) Inspection of records under para-5&6 above, shall strictly be in accordance with the instructions issued from time to time by Hqrs. Office and repeated in Circular No.13/HQ/1/2016-CAIU(VIP) dated 02.12.2015

**B. Cases to be dealt with through the UWP on random selection only:**

1. Cases relating to closed units.
2. Inspection of the unit on specific and justified request from Employer.

**C. Cases to be referred to CAIU for approval:**

1. Complaint cases relating to coverage of uncovered units, under-reporting of compliance/concealment of employment/default in compliance by a covered unit.
2. Cases, where on scrutiny/available field-level data, RO/SRO identifies that a particular Employer is consistently under-reporting/concealing the actual compliance by substantially reducing the Average No. of Days per employee per month vis-à-vis the no. of employees actually engaged and identified for inspection by the field office on the basis of – “system driven inspection criteria”, as laid down under part-B of the Inspection Policy. (also refer circular No.S-13/HQ/02/2015-CAIU dated 10.08.2016)
3. Complaint cases relating to benefit payments and complaints relating to not covered units requiring surprise physical verification/inspection for redressal of the complaint.
4. In exceptionally important and urgent complaint cases in benefit related matters only (to ascertain the entitlement of IPs/beneficiaries), where delay may cause undue hardship to the beneficiary, inspection/surprise inspection as is required may be conducted by RD/Director In Charge at his own level simultaneously forwarding the case, with full justification to Hqrs. Office for post-facto approval. Similar procedure may be followed in important complaint cases received directly by respective office from MOL&E/PMO-CPGRAMS.

In such cases, where approval for Inspection/Investigation of complaint by Surprise Check/Physical Verification of the premises is required, Regions/Sub Regions, shall examine the compliance trends/variation in compliance for the last 3 contribution periods and data with specific information regarding compliance for period covered in complaint and for employee(s) mentioned in the complaint as being deprived from benefits of the scheme. The compliance trend may be examined keeping the following data in view -

- (i) No. of IPs (excluding those with ZERO days) in the last three Returns of Contribution (RC)
- (ii) Total no. of days in these RCs
- (iii) Total wages in each of the RC
- (iv) Average days per IP per Month in each of the RC
- (v) Average wages per IP per Month in each of the RC
- (vi) No. of workers/employees assuming 26 days per employee per month (i.e. Total no. of days in the last RC / 182 days per IP per CP)
- (vii) Difference (i) – (vi), as an indicator to probable quantum of concealment/under-compliance by the employer.

On the basis of above data and the contents of the complaints, Regional/Sub Regional Head shall give factual position and his/her comments over the irregularities/issues in complaint alongwith details of similar previous complaints, if any, with their investigation details and also of the previous inspection details, including period covered and omitted wages/irregularities detected.

Once the approval for inspection/investigation of complaint by surprise check, is accorded, it shall be responsibility of the field office to ensure that follow-up action is initiated and completed in a time bound manner specified in the circular.

**D.** In complaint cases, **time is the essence of investigation.** Delayed investigation may defeat the purpose of entire exercise and justice may be denied to the complainant worker(s). To ensure the investigation and follow up action timely, **the time frame for all stages involved in the process, has been decided/approved by DG as under:-**

<b>TIMELINE FOR DISPOSAL OF COMPLAINTS</b>		
<b>Sl. No.</b>	<b>Action by RO/SRO/CAIU</b>	<b>Timeline</b>
1)	Processing and forwarding of the complaints by ROs/SROs to Hqrs. CAIU along with complete details/feedback for Approval of Surprise Physical Verification (SPV)/Regular Inspection (RI) or both.	3 days
2)	Processing of the case for approval/rejection by CAIU and communication of decision.	7 days
3)	Action to be taken by field office on approval including uploading of the case on CAIU portal, conducting of SPV (if approved) and also the inspection of records, including uploading of the reports on portal.	7 days for SPV and 15 days for SPV followed by inspection of records. 10 days, if only inspection of records.
4)	Follow up action like reply to complainant, initiating action against employer for irregularities, informing of the outcome of the investigation/inspection with details of the irregularities to CAIU Headquarters.	7 days
5)	Final settlement of the complaints.	Within 7 days of the receipt of the report as per Sl.No.4.

The above time limits, are however, the maximum period permitted and efforts should be to settle the complaints as early as possible. Moreover, the time limits shall not be applicable on references from PMO/Ministry/NHRC/VIPs etc. where specific time limits less than these time limits, are mentioned in the related communication. **Ministry has desired that the time limits should be observed sincerely and seriously.**

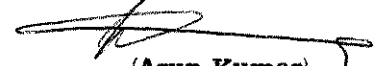
In such cases, inspections by SSO, shall attend every issue/irregularity alleged by the complainant in complaint and he will record his findings on every issue for appropriate reply to complainant. Inspection of the records/Investigation of complaint should be conducted strictly in accordance with the instructions/guidelines issued from Revenue Division/CAIU from time to time, as reiterated in Circular dated 02.12.2015 and as per Inspection Policy/Inspection Scheme of ESIC.

After doing the needful, an **Action Taken Report** shall be furnished invariably in a prescribed format within seven days positively in individual case, in addition to monthly report in prescribed format for the purpose of monitoring/analysis for considering improvements/changes in Inspection Scheme/Policy, if any, required and to settle/redress the complaint finally. Delay, if any, at any stage, shall have to be clarified/justified and Regional/Sub Regional Head, has to fix the responsibility for serious lapses/delay on the part of any official. It is again clarified and reiterated that **no complaint investigation/surprise check of employers premises, in cases of complaints for default in compliance in any manner, shall be undertaken by field offices without approval of Hqrs. Office (except in cases covered under Para-4 Part-C of this letter) and complaints, where inspection approval/surprise check is required, shall invariably be forwarded immediately** on receipt by you, to Hqrs., with all prescribed details, as mentioned above. All communications/references to Hqrs./CAIU shall be sent from official e-mail ID of the Regional Director/Director/Joint Director Incharge only and alternatively in exceptional cases, with express approval and/or under signatures of RD/Director/Joint Director In-Charge only.

This issues with the approval of DG.

Hindi version will follow.

Yours sincerely



(Arun Kumar)

Insurance Commissioner(Rev.)

**Copy to:**

1. PS to DG/FC/MC/ICs at ESIC Hqrs. Office for information of the officers concerned.
2. All Branch Officers at ESIC Hqrs. Office for information and necessary action as above.
3. Website Content Manager for uploading the circular on the ESIC Website.



Director(CAIU)